

1                   A bill to be entitled  
2     An act relating to prescription drug price  
3     transparency; amending s. 499.012, F.S.; requiring  
4     prescription drug manufacturers to comply with s.  
5     499.026 as a condition of receiving a permit; creating  
6     s. 499.026, F.S.; requiring prescription drug  
7     manufacturers to provide notice of drug price  
8     increases to insurers; requiring prescription drug  
9     manufacturers to provide an annual report on drug  
10    price increases; creating s. 624.491, F.S.; providing  
11    timelines and documentation requirements for pharmacy  
12    audits conducted by insurers, health maintenance  
13    organizations, or their agents; amending s. 627.64741,  
14    F.S.; defining the terms "administrative fee",  
15    "rebate", and "spread pricing"; requiring reporting  
16    requirements in contracts between health insurers and  
17    pharmacy benefit managers; amending s. 627. 6572,  
18    F.S.; defining the terms "administrative fee",  
19    "rebate", and "spread pricing"; requiring reporting  
20    requirements in contracts between health insurers and  
21    pharmacy benefit managers; amending s. 641.314, F.S.;  
22    defining the terms "administrative fee", "rebate", and  
23    "spread pricing"; requiring reporting requirements in  
24    contracts between health maintenance organizations and  
25    pharmacy benefit managers; providing an effective

26 date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Subsection (16) is added to section 499.012,  
31 Florida Statutes, to read:

32 499.012 Permit application requirements.—

33 (16) A permit for a prescription drug manufacturer or a  
34 nonresident prescription drug manufacturer is subject to the  
35 requirements of s. 499.026.

36 Section 2. Section 499.026, Florida Statutes, is created  
37 to read:

38 499.026 Prescription Drug Price Increases.—

39 (1) As used in this section, the term:

40 (a) "Health insurer" means a health insurer issuing major  
41 medical coverage through an individual or group policy or a  
42 health maintenance organization issuing major medical coverage  
43 through an individual or group contract, regulated under chapter  
44 627 or chapter 641.

45 (b) "Manufacturer" means any person holding a prescription  
46 drug manufacturer permit or a nonresident prescription drug  
47 manufacturer permit under s. 499.01.

48 (2) At least 60 days prior to the effective date of any  
49 manufacturer drug price increase, a manufacturer must provide  
50 notification of the upcoming price increase and the amount of

51 the price increase to every health insurer that covers the drug.

52 (3) By April 1 of each year, a manufacturer must submit a  
53 report to the department and the Office of Insurance Regulation  
54 on each manufacturer drug price increase made during the  
55 previous calendar year. At a minimum, the report shall include:

56 (a) A list of all drugs affected by the drug price  
57 increase and both the dollar amount of each drug price increase  
58 and the percentage increase of each drug price increase,  
59 relative to the previous price of the drug.

60 (b) A complete description of the factors contributing to  
61 the drug price increase.

62 Section 3. Section 624.491, Florida Statutes, is created  
63 to read:

64 624.491 Pharmacy audits.— A health insurer or health  
65 maintenance organization providing pharmacy benefits through a  
66 major medical individual or group health policy or health  
67 maintenance contract, respectively, shall comply with the  
68 requirements of this section when the insurer or health  
69 maintenance organization or any entity acting on behalf of the  
70 insurer or health maintenance organization, including, but not  
71 limited to, a pharmacy benefit manager, audits the records of a  
72 pharmacy licensed under chapter 465. The entity conducting such  
73 an audit shall:

74 (1) Notify the pharmacy at least 7 calendar days before  
75 the initial onsite audit for each audit cycle.

76        (2) Ensure the audit is not initiated during the first 3  
77 calendar days of a month unless the pharmacist consents  
78 otherwise.

79        (3) Limit the audit period to 24 months after the date a  
80 claim is submitted to or adjudicated by the entity.

81        (4) Provide a preliminary audit report to the pharmacy  
82 within 120 days after the conclusion of the audit.

83        (5) Provide a final audit report to the pharmacy within 6  
84 months after having providing the preliminary audit report.

85        Section 4. Section 627.64741, Florida Statutes, is amended  
86 to read:

87        627.64741 Pharmacy benefit manager contracts.—

88        (1) As used in this section, the term:

89        (a) "Administrative fee" means a fee or payment under a  
90 contract between a health insurer and a pharmacy benefit manager  
91 associated with the pharmacy benefit manager's administration of  
92 the insurer's prescription drug benefit programs that is paid by  
93 the insurer to the pharmacy benefit manager.

94        (b) ~~(a)~~ "Maximum allowable cost" means the per-unit amount  
95 that a pharmacy benefit manager reimburses a pharmacist for a  
96 prescription drug, excluding dispensing fees, prior to the  
97 application of copayments, coinsurance, and other cost-sharing  
98 charges, if any.

99        (c) ~~(b)~~ "Pharmacy benefit manager" means a person or entity  
100 doing business in this state which contracts to administer or

101 manage prescription drug benefits on behalf of a health insurer  
102 to residents of this state.

103 (d) "Rebate" means all discounts and other negotiated  
104 price concessions based on utilization of a prescription drug  
105 and paid by the pharmaceutical manufacturer or other entity,  
106 other than an insured, to the pharmacy benefit manager after the  
107 claim has been adjudicated at the pharmacy.

108 (e) "Spread pricing" means any amount a pharmacy benefit  
109 manager charges or receives from a health insurer for payment of  
110 a prescription drug or pharmacy service that is greater than the  
111 amount the pharmacy benefit manager paid to the pharmacist or  
112 pharmacy that filled the prescription or provider the pharmacy  
113 service.

114 (2) A contract between a health insurer and a pharmacy  
115 benefit manager must require that the pharmacy benefit manager:

116 (a) Update maximum allowable cost pricing information at  
117 least every 7 calendar days.

118 (b) Maintain a process that will, in a timely manner,  
119 eliminate drugs from maximum allowable cost lists or modify drug  
120 prices to remain consistent with changes in pricing data used in  
121 formulating maximum allowable cost prices and product  
122 availability.

123 (3) A contract between a health insurer and a pharmacy  
124 benefit manager must prohibit the pharmacy benefit manager from  
125 limiting a pharmacist's ability to disclose whether the cost-

126 sharing obligation exceeds the retail price for a covered  
127 prescription drug, and the availability of a more affordable  
128 alternative drug, pursuant to s. 465.0244.

129 (4) A contract between a health insurer and a pharmacy  
130 benefit manager must prohibit the pharmacy benefit manager from  
131 requiring an insured to make a payment for a prescription drug  
132 at the point of sale in an amount that exceeds the lesser of:

133 (a) The applicable cost-sharing amount; or

134 (b) The retail price of the drug in the absence of  
135 prescription drug coverage.

136 (5) A contract between a health insurer and a pharmacy  
137 benefit manager must require the pharmacy benefit manager to  
138 report the following to the insurer annually:

139 (a) The aggregate amount of all rebates the pharmacy  
140 benefit manager received in association with claims administered  
141 on behalf of the insurer and the aggregate amount of such  
142 rebates the pharmacy benefit manager received that were not  
143 passed through to the insurer.

144 (b) The aggregate amount of administrative fees paid to  
145 the pharmacy benefit manager by the insurer for the  
146 administration of the insurer's prescription drug benefit  
147 programs.

148 (c) The types and aggregate amounts of any fees or  
149 remittances paid to the pharmacy benefit manager by pharmacies.

150 (d) The aggregate amount of revenue generated by the

151 pharmacy benefit manager through the use of spread pricing in  
152 association with administration of the insurer's pharmacy  
153 benefit programs.

154 (6) Not later than June 31, 2021, and annually thereafter,  
155 a health insurer shall submit a report to the office including  
156 the information provided by its contracted pharmacy benefit  
157 managers under subsection (5). The office shall publish the  
158 reports on its internet website, and publish an analysis of the  
159 reported information.

160 (7)(5) This section applies to contracts entered into or  
161 renewed on or after July 1, 202018.

162 Section 5. Section 627.6572, Florida Statutes, is amended  
163 to read:

164 627.6572 Pharmacy benefit manager contracts.—

165 (1) As used in this section, the term:

166 (a) "Administrative fee" means a fee or payment under a  
167 contract between a health insurer and a pharmacy benefit manager  
168 associated with the pharmacy benefit manager's administration of  
169 the insurer's prescription drug benefit programs that is paid by  
170 the insurer to the pharmacy benefit manager.

171 (b)(a) "Maximum allowable cost" means the per-unit amount  
172 that a pharmacy benefit manager reimburses a pharmacist for a  
173 prescription drug, excluding dispensing fees, prior to the  
174 application of copayments, coinsurance, and other cost-sharing  
175 charges, if any.

176 ~~(c)-(b)~~ "Pharmacy benefit manager" means a person or entity  
177 doing business in this state which contracts to administer or  
178 manage prescription drug benefits on behalf of a health insurer  
179 to residents of this state.

180 (d) "Rebate" means all discounts and other negotiated  
181 price concessions based on utilization of a prescription drug  
182 and paid by the pharmaceutical manufacturer or other entity,  
183 other than an insured, to the pharmacy benefit manager after the  
184 claim has been adjudicated at the pharmacy.

185 (e) "Spread pricing" means any amount a pharmacy benefit  
186 manager charges or receives from a health insurer for payment of  
187 a prescription drug or pharmacy service that is greater than the  
188 amount the pharmacy benefit manager paid to the pharmacist or  
189 pharmacy that filled the prescription or provider the pharmacy  
190 service.

191 (2) A contract between a health insurer and a pharmacy  
192 benefit manager must require that the pharmacy benefit manager:

193 (a) Update maximum allowable cost pricing information at  
194 least every 7 calendar days.

195 (b) Maintain a process that will, in a timely manner,  
196 eliminate drugs from maximum allowable cost lists or modify drug  
197 prices to remain consistent with changes in pricing data used in  
198 formulating maximum allowable cost prices and product  
199 availability.

200 (3) A contract between a health insurer and a pharmacy

benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount; or

(b) The retail price of the drug in the absence of prescription drug coverage.

(5) A contract between a health insurer and a pharmacy benefit manager must require the pharmacy benefit manager to report the following to the insurer annually:

(a) The aggregate amount of all rebates the pharmacy benefit manager received in association with claims administered on behalf of the insurer and the aggregate amount of such rebates the pharmacy benefit manager received that were not passed through to the insurer.

(b) The aggregate amount of administrative fees paid to the pharmacy benefit manager by the insurer for the administration of the insurer's prescription drug benefit programs.

(c) The types and aggregate amounts of any fees or

remittances paid to the pharmacy benefit manager by pharmacies.

(d) The aggregate amount of revenue generated by the pharmacy benefit manager through the use of spread pricing in association with administration of the insurer's pharmacy benefit programs.

(6) Not later than June 31, 2021, and annually thereafter, a health insurer shall submit a report to the office including the information provided by its contracted pharmacy benefit managers under subsection (5). The office shall publish the reports on its internet website, and publish an analysis of the reported information.

(7)~~(5)~~ This section applies to contracts entered into or renewed on or after July 1, 2020~~18~~.

Section 6. Section 641.314, Florida Statutes, is amended to read:

641.314 Pharmacy benefit manager contracts.—

(1) As used in this section, the term:

(a) "Administrative fee" means a fee or payment under a contract between a health maintenance organization and a pharmacy benefit manager associated with the pharmacy benefit manager's administration of the health maintenance organization's prescription drug benefit programs that is paid by the health maintenance organization to the pharmacy benefit manager.

(b)~~(a)~~ "Maximum allowable cost" means the per-unit amount

251 that a pharmacy benefit manager reimburses a pharmacist for a  
252 prescription drug, excluding dispensing fees, prior to the  
253 application of copayments, coinsurance, and other cost-sharing  
254 charges, if any.

255 (c) ~~(b)~~ "Pharmacy benefit manager" means a person or entity  
256 doing business in this state which contracts to administer or  
257 manage prescription drug benefits on behalf of a health  
258 maintenance organization to residents of this state.

259 (d) "Rebate" means all discounts and other negotiated  
260 price concessions based on utilization of a prescription drug  
261 and paid by the pharmaceutical manufacturer or other entity,  
262 other than an insured, to the pharmacy benefit manager after the  
263 claim has been adjudicated at the pharmacy.

264 (e) "Spread pricing" means any amount a pharmacy benefit  
265 manager charges or receives from a health maintenance  
266 organization for payment of a prescription drug or pharmacy  
267 service that is greater than the amount the pharmacy benefit  
268 manager paid to the pharmacist or pharmacy that filled the  
269 prescription or provider the pharmacy service.

270 (2) A contract between a health maintenance organization  
271 and a pharmacy benefit manager must require that the pharmacy  
272 benefit manager:

273 (a) Update maximum allowable cost pricing information at  
274 least every 7 calendar days.

275 (b) Maintain a process that will, in a timely manner,

eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

(3) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(4) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring a subscriber to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount; or

(b) The retail price of the drug in the absence of prescription drug coverage.

(5) A contract between a health maintenance organization and a pharmacy benefit manager must require the pharmacy benefit manager to report the following to the health maintenance organization annually:

(a) The aggregate amount of all rebates the pharmacy benefit manager received in association with claims administered on behalf of the health maintenance organization and the

301 aggregate amount of such rebates the pharmacy benefit manager  
302 received that were not passed through to the health maintenance  
303 organization.

304 (b) The aggregate amount of administrative fees paid to  
305 the pharmacy benefit manager by the health maintenance  
306 organization for the administration of the health maintenance  
307 organization's prescription drug benefit programs.

308 (c) The types and aggregate amounts of any fees or  
309 remittances paid to the pharmacy benefit manager by pharmacies.

310 (d) The aggregate amount of revenue generated by the  
311 pharmacy benefit manager through the use of spread pricing in  
312 association with administration of the health maintenance  
313 organization's pharmacy benefit programs.

314 (6) Not later than June 31, 2021, and annually thereafter,  
315 a health maintenance organization shall submit a report to the  
316 office including the information provided by its contracted  
317 pharmacy benefit managers under subsection (5). The office shall  
318 publish the reports on its internet website, and publish an  
319 analysis of the reported information.

320 (7)(5) This section applies to contracts entered into or  
321 renewed on or after July 1, 2020~~18~~.

322 Section 7. This act shall take effect July 1, 2020.